

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

MIRIAM CRYSTAL HERRERA,
Petitioner,

v.

No. 4:24-cv-0960-P

WARDEN RULE,
Respondent.

OPINION AND ORDER

Came on for consideration the petition of Miriam Crystal Herrera under 28 U.S.C. § 2241. The Court, having considered the petition, the response, the reply, the record, and applicable authorities, concludes that the petition must be **DENIED**.

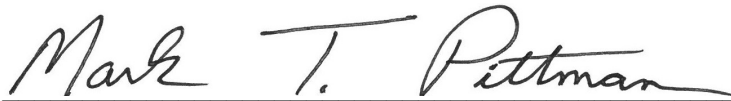
Petitioner is serving a 480-month sentence for possession with intent to distribute a controlled substance, in violation of 21 U.S.C. § 841(a)(1) & (b)(1)(B). ECF No. 9 at App. 005–006. She contends that she is being denied time credits under the First Step Act (“FSA”) due to an immigration detainer. ECF No. 1 at 1. She is mistaken.

The FSA authorizes the Bureau of Prisons (“BOP”) to grant time credits to eligible inmates. 18 U.S.C. § 3624(g). Calculation of time credits lies within the discretion of the BOP. 18 U.S.C. § 3624(b). “An eligible inmate . . . may earn FSA Time Credits for programming and activities in which he or she participated from December 21, 2018, until January 14, 2020,” and “may earn FSA Time Credit if he or she is successfully participating in EBRR [Evidence-Based Recidivism Reduction] programs or PAs [Productive Activities] that the Bureau has recommended based on the inmate’s individualized risk and needs assessment on or after January 15, 2020.” 28 C.F.R. § 523.42(b). Depending on his or her status, an inmate may earn either ten or fifteen days’ credit for every thirty-day period of successful participation in EBRR Programs or PAs recommended. 28 C.F.R. § 523.42(c). Assuming the inmate meets the eligibility criteria set forth in 18 U.S.C.

§ 3632(g)(1), and has a term of supervised release to serve, the BOP may apply the credits to transfer the inmate to supervised release up to twelve months early. 18 U.S.C. § 3624(g)(3); 28 C.F.R. § 523.44(d). The FSA time credits are applied when the inmate has earned time credits in an amount that is equal to the remainder of his or her term of imprisonment. 18 U.S.C. § 3624(g)(1)(A).

Certain convictions disqualify inmates from earning FSA time credits. 18 U.S.C. § 3632(d)(4)(D). Relevant here, disqualification applies to an inmate convicted under 21 U.S.C. § 841(b)(1) for possession with intent to distribute a mixture or substance containing a detectable amount of heroin if the sentencing court finds that the offender was an organizer, leader, manager, or supervisor of others in the offense. 18 U.S.C. § 3632(d)(4)(D)(lxv). The same applies for a conviction of possession with intent to distribute a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers if the sentencing court finds that the offender was an organizer, leader, manager, or supervisor of others in the offense. 18 U.S.C. § 3632(d)(4)(D)(lxvii). Petitioner was responsible for both heroin and methamphetamine and she was determined to be an organizer or leader of criminal activity that was otherwise extensive. ECF No. 9 at App. 003. She is not entitled to earn time credits. Her reply does not address her disqualification. ECF No. 13.

SO ORDERED on this **10th day of February 2025**.

A handwritten signature in black ink, reading "Mark T. Pittman". The signature is fluid and cursive, with the first name "Mark" and last name "Pittman" clearly legible. The middle initial "T." is smaller and positioned between the first and last names.

Mark T. Pittman
UNITED STATES DISTRICT JUDGE